

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**EDWIN POLYNICE,**

**Plaintiff,**

**v.**

**NEW JERSEY DEPARTMENT OF  
CORRECTIONS,**

**Defendants.**

**Civil Action No. 19-16875 (MCA)**

**ORDER**

This matter having opened to the Court on a motion to dismiss Plaintiff Edwin O. Polynice's Complaint pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) brought by the New Jersey Department of Corrections ("NJDOC"), Northern State Prison, and Administrator George Robinson (collectively "State Defendants"); and Plaintiff having filed his response in opposition; and the Court having considered the parties' arguments and for the reasons explained in the Memorandum Opinion accompanying this Order;

**IT IS, THEREFORE,** on this 28<sup>th</sup> day of May 2020,

**ORDERED** that the motion to dismiss (ECF No. 9) is **GRANTED** in part and **DENIED** in part as follows:

1. the motion to dismiss the § 1983 claims as to the NJDOC, Northern State Prison, and the damages claims against Administrator George Robinson in his official capacity is **GRANTED**; these claims are dismissed **WITH PREJUDICE**;
2. the motion to dismiss the state law negligence claims for failure to comply with the notice provision of the New Jersey Tort Claims Act ("NJTCA") is **GRANTED**; these claims are dismissed **WITHOUT PREJUDICE**;

3. the motion to dismiss the § 1983 claims against Administrator George Robinson in his personal supervisory capacity are **DENIED WITHOUT PREJUDICE**;
4. the motion to dismiss for failure to exhaust administrative remedies under the Prisoner Litigation Reform Act of 1995 (“PLRA”) is **DENIED WITHOUT PRJUDICE**.

/s/ Madeline Cox Arleo

**Hon. Madeline Cox Arleo**

**UNITED STATES DISTRICT JUDGE**